

# **EXHIBIT 9**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

LORI ANN MORRIS,  
Plaintiff,

Vs. CIVIL ACTION NO.  
3:02-CV-962-T

FLORIDA TRANSFORMER,  
EDWARD NEAL THOMPSON,  
et al.,  
Defendants.

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DEPOSITION OF EDWARD L. ROBINSON, taken  
pursuant to stipulation and agreement before  
Haley A. Phillips, Certified Shorthand Reporter,  
and Commissioner for the State of Alabama at Large,  
in the Law Offices of Henry L. Penick, 319 17th  
Street, Birmingham, Alabama, on Thursday, June 22,  
2006, commencing at approximately 10:05 a.m.

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STIPULATION

It is hereby stipulated and agreed by and between counsel representing the parties that the deposition of EDWARD L. ROBINSON is taken pursuant to the Federal Rules of Civil Procedure and that said deposition may be taken before Haley A. Phillips, Certified Shorthand Reporter, and Commissioner for the State of Alabama at Large, without the formality of a commission, that objections to questions other than objections as to the form of the question need not be made at this time but may be reserved for a ruling at such time as the said deposition may be offered in evidence or used for any other purpose by either party provided for by the Statute.

It is further stipulated and agreed by and between counsel representing the parties in this case that the filing of said deposition is hereby waived and may be introduced at the trial of this case or used in any other manner by either party hereto provided for by the Statute regardless of the waiving of the filing of the same.

It is further stipulated and agreed by and



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1 Q. Do you have any medical training?  
 2 A. No, not formal medical training. I've been  
 3 involved in paramedical sort of stuff, like  
 4 radiation safety and been raised in safety  
 5 officer at UAB, but I wasn't involved in  
 6 the day-to-day surveys. It was more  
 7 administrative. And I've taught courses  
 8 in -- a licensure course for ...  
 9 Q. Well, you're not a medical doctor?  
 10 A. No, I'm not.  
 11 Q. You don't hold yourself out as an expert in  
 12 this case being able to determine cause of  
 13 death?  
 14 A. Oh, no. No. One thing that you were  
 15 asking about formal education, I would go  
 16 to experience also. At one point I had a  
 17 joint appointment in the forensic science  
 18 department from the justice program, a  
 19 graduate program. And I did for a period  
 20 of time give lectures in one of their  
 21 introductory graduate courses, a couple  
 22 hours lecture on accident reconstruction.  
 23 I didn't try to make an accident

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1 reconstructionist out of people in two  
 2 hours, but I tried to show them the  
 3 physical basis of it and show them more or  
 4 less what could or couldn't be done, so  
 5 they would know when to yield for a  
 6 reconstruction and when it wasn't going to  
 7 be applicable.  
 8 Q. Do you have any training in biomechanics?  
 9 A. No.  
 10 Q. So you don't hold yourself out in this case  
 11 as an expert in biomechanics?  
 12 A. No.  
 13 Q. You're not holding yourself out as an  
 14 expert in this case on what specific  
 15 injuries might have caused the death of  
 16 Mr. Morris in this case?  
 17 A. No.  
 18 Q. Do you hold yourself out as an expert on  
 19 what -- in this case on what specific  
 20 objects caused any specific injuries to  
 21 Mr. Morris?  
 22 A. Well, in the sense of discerning between  
 23 the most likely result of the truck

1 overturn versus the impact by the other  
 2 truck, I think that we can make some  
 3 separation on that.  
 4 Q. Well, wouldn't a biomechanic --  
 5 biomechanical expert be the proper person  
 6 qualified to determine what physical  
 7 injuries on Mr. Morris' body were caused by  
 8 what particular objects during the accident  
 9 sequence?  
 10 A. I'm not trying to do that.  
 11 Q. All right, sir.  
 12 A. My general experience in overturned trucks  
 13 is that the injuries that Mr. Morris  
 14 received -- the very serious injuries I've  
 15 never seen before in an overturned truck  
 16 accident, so I would think it highly  
 17 unlikely that these injuries would have  
 18 been associated with the overturn. On the  
 19 other hand, impact by another vehicle of  
 20 comparable mass at 70 miles an hour or 60  
 21 miles an hour would be expected to cause  
 22 some very serious injuries.  
 23 Q. But you're not testifying as to any

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1 specific injuries on Mr. Morris' body were  
 2 caused by any specific objects during the  
 3 accident sequence?  
 4 A. I'm not trying to bring it down to that  
 5 point, no.  
 6 Q. You're not going to give any opinions on  
 7 that?  
 8 A. I'm just going to say that I think his  
 9 serious injuries were due to the impact,  
 10 not the overturn.  
 11 Q. While we're on that, what -- at what  
 12 speed -- Did you calculate a speed of  
 13 the -- And I'm going to call for purposes  
 14 of this deposition -- And we're going to  
 15 get this confused I'm sure, because I  
 16 confuse it in my mind. I'm going to try to  
 17 differentiate between Mr. Morris' vehicle  
 18 by calling it the Kenworth vehicle and the  
 19 vehicle driven by Mr. Thompson by calling  
 20 it the Peterbilt vehicle. Now, we both  
 21 know that that's just referring to the  
 22 tractor -- or the truck part of the rig,  
 23 not the trailer?



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1 belt.  
2 Q. Are you aware of any studies that have been  
3 done to determine injuries received from  
4 seat belts?

5 A. No.

6 Q. You're not testifying today either way as  
7 to whether or not the fatal injuries to  
8 Mr. Morris were caused by the seat belt?

9 A. I don't know. It's certainly possible in  
10 the kind of impact that he got that just  
11 the inertia forces and the weight of his  
12 body could have done significant damage  
13 like breaking bones.

14 Q. Have you ever worked in a case for either  
15 side where there was a fatality in a  
16 rollover?

17 A. I'm sure I have. I can't put my finger on  
18 one right now. But, yeah, it's not  
19 uncommon for fatalities in rollovers with  
20 cars.

21 Q. Well, you're not ruling out the fact that  
22 Mr. Morris could have been fatally injured  
23 during the rollover in this case?

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1 A. In my own mind, yes. Because the nature of  
2 the injuries is not such that would be on  
3 the left side of his body. I mean, he  
4 would have bilateral injuries. And that's  
5 not going to happen when he -- from that  
6 rollover.

7 Q. But you don't know what injuries caused his  
8 death?

9 A. I haven't -- All I've done is look at the  
10 autopsy report. I haven't tried to make  
11 any determination beyond that.

12 Q. And it would be fair to say that Mr. Morris  
13 could have received fatal injuries in this  
14 case during the rollover?

15 A. I don't believe that. Because he's belted  
16 in, and I don't believe he would have  
17 ejected from the simple rollover with his  
18 seat belt on.

19 Q. We don't know -- You don't know -- Because  
20 you're not a medical expert, you don't know  
21 whether or not he received fatal injuries  
22 before ejection, do you?

23 A. Well, I don't think a medical expert could

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1 necessarily tell you that. He could tell  
2 you what the -- what injuries were  
3 associated with the fatality. But I don't  
4 think you've got the kinds of forces  
5 involved with the rollover by a factor of  
6 ten or 100 to cause the kind of injuries  
7 that you can get from these impacts.  
8 Q. But that -- that -- And I understand -- I  
9 understand you want to give your personal  
10 opinion, observation that you think it was  
11 more like -- that you think it was more  
12 likely in your personal opinion that the  
13 impact forces or that injuries received  
14 after the impact with the Peterbilt could  
15 have caused Mr. Morris' death. But what  
16 I'm getting at is you don't have a  
17 professional opinion because you're not a  
18 medical -- you're not a medical expert,  
19 you're not a biomechanical expert, you  
20 haven't determined what specific injuries  
21 were caused by what specific objects or  
22 forces in this case, so you can't give an  
23 opinion to any degree of reasonable medical

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1 certainty as to what caused Mr. Morris'  
2 death in this case?

3 A. No, I can't give a medical opinion or a  
4 biomedical (sic) engineering opinion. I'm  
5 just basing it on experience looking at  
6 other vehicle wrecks over the last 40 years  
7 as to what kind of forces won't cause what  
8 kind of injuries.

9 Q. But you do agree that people have been  
10 fatally injured in rollover accidents?

11 A. They have.

12 Q. The next comment on Defendant's Exhibit 2  
13 says no evidence the belt was slash  
14 something?

15 A. Was not worn.

16 Q. No evidence the belt was not worn except  
17 the belt locked fully.

18 A. Uh-huh (positive response). In extended  
19 position.

20 Q. What does that mean?

21 A. Well, belt locked fully extended.

22 Q. Belt locked fully extended.

23 A. Right.

stretch mark would have required severe enough impact that, in my opinion, that truck wouldn't still be in use if that stretch mark had come from a prior accident.

Q. What sort of force in foot-pounds or force measurements is required to make that mark that you call a stretch mark on the belt fabric?

A. My estimate would be several thousand pounds. I believe the tensile of those belts is something like 5,000 or 6,000 pounds. So you'd have to have some fraction -- some reasonable fraction of that to cause the stretch marks.

In a case of fairly low speed accidents, I've seen quantitative data where collisions with barriers for automobiles at 20, 25 miles an hour with results in accelerations on the occupants of 20 Gs of acceleration. This means for a few tens of milliseconds -- 100 milliseconds that the apparent weight of



1 the occupant is 20 times what his normal  
2 weight is. So a 100-pound person would  
3 suddenly weigh a ton. 20 Gs, a ten-pound  
4 baby suddenly weighs 200 pounds. That's  
5 the reason they tell you don't hold a baby  
6 in the car. You can't hold it during that  
7 impact.

8 I think the kinds of forces we're  
9 talking about with a 60 or 70 miles an hour  
10 impact with the other truck would result in  
11 forces significantly higher than that. I'm  
12 thinking we're talking in terms of several  
13 tens of Gs. So the man sitting here in the  
14 seat with the bottom facing the truck and  
15 the truck hits it, it may momentarily be  
16 100 Gs. This 100-pound man may for a few  
17 milliseconds weigh 10,000 pounds for  
18 just -- His bounce back from the seat then  
19 can stretch that belt very readily. We're  
20 talking about tremendous force.

21 Q. Have -- And I appreciate the information  
22 you gave us. Did you or Messerschmidt do  
23 any calculations in this case to determine

1 Q. Okay. He didn't give you a reason? You  
2 don't keep a personnel file on employees  
3 like that?

4 A. No.

5 Q. The -- We marked these, too, didn't we?  
6 Defendant's Exhibits 11 and 12 are your  
7 sworn affidavit and your March final  
8 version of your report; correct?

9 A. Right.

10 Q. All right. And I want to mark as --  
11 Defendant's Exhibits 13, 14 and 15 will  
12 be -- I'm going to mark these up at the top  
13 of the page -- what we understand from our  
14 quick review to be preliminary reports one,  
15 two and three.

16 (Defendant's Exhibits 13, 14 and 15  
17 were marked for identification.)

18 Q. They're not numbered, but I'm numbering  
19 them Plaintiff's -- I mean Defendant's  
20 Exhibits 13, 14 and 15. And I'll just go  
21 one at a time.

22 Defendant's Exhibit 13 is this  
23 version. Now, we can look at it together.

1 Or do you have a copy? Is that your --  
2 Well, I'll just ask you. Is that your --  
3 Is that your initial report?

4 A. That was the initial draft of the report,  
5 yes. This was not sent out.

6 Q. Who was that sent to?

7 A. It was internal. You said you wanted the  
8 entire file, so I downloaded everything  
9 that was on the computer. What happens is  
10 when we do a preliminary report and save  
11 it, then when we start modifying it. We  
12 usually pull it up, reopen it and resave it  
13 in case of a computer glitch. So we end up  
14 with the draft and the second draft and the  
15 third draft and so forth.

16 Q. All right. So that -- Do you know when  
17 that preliminary first draft was issued?

18 A. I don't have a date on what's marked  
19 preliminary report. Preliminary reports  
20 two and three are both 3/17/05.

21 Q. All right. Did you get any feedback -- Did  
22 you submit the first preliminary report,  
23 Defendant's Exhibit 13 -- did you submit



1           that one to Attorney Robinson or Attorney  
2           Penick?

3       A.   Not to Penick. I can't recall if I showed  
4           that one to Robinson or not. I remember  
5           editing pretty heavily one of the things  
6           that he suggested, and I think that was the  
7           sworn affidavit. I may have faxed him a  
8           copy of the preliminary report to show him  
9           what we were -- what areas we were  
10          covering. Yeah. He has --

11                               (Defendant's Exhibit 18 was marked  
12                               for identification.)

13       Q.   Let me show you Defendant's Exhibit 18.

14       A.   Yes. I did send him preliminary report  
15           number two.

16       Q.   Well, Defendant's Exhibit 18 is -- looks to  
17           be a fax cover sheet March 3, 2005. Is  
18           that the original preliminary report  
19           transmittal to Attorney Robinson?

20       A.   I think it was.

21       Q.   Okay. And that goes with, then,  
22           Defendant's Exhibit 13; right? That was  
23           the cover fax for Defendant's Exhibit 13?